IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.8.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.434 of 2007

Subramaniyan .. Petitioner

Vs

1. The Secretary to the Government
   Prohibition and Excise Department
   Fort St. George
   Chennai 600 009.

2. The District Magistrate
   and District Collector
   Nagapattinam District
   Nagapattinam. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.T.P.Senthilkumar

For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

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O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, who is the father of detenu, Kannan, who was incarcerated by order dated 6.3.2007 of the second respondent under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum

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Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a Bootlegger, has preferred this writ petition for issue of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 6.3.2007 in his Office Ref. C.O.C. No.6/2007 against the petitioner's son, Kannan, now confined at Central Prison, Tiruchirappalli, to set aside the same and to direct the respondents to produce the above said detenu before this Court and set him at liberty.

2. The order of detention dated 6.3.2007 came to be passed based on the ground case said to have taken place on 16.2.2007 at about 19.00 hours, on the basis of the complaint lodged by one Vasantha before the Inspector of Police, Kariyapattinam Police Station. According to the complainant, her was husband was doing agricultural work and there was previous enmity between her husband and one Rajasimman over local body elections. On the occurrence day, the said Rajasimman along with the detenu and some others armed with deadly weapons, came to their house, murdered her husband and damaged doors, windows, cycle and wind screens of the car.

3. The second respondent, taking note of this case as a ground case and finding that there are two adverse cases pending against the detenu for the offences punishable under Sections 506(ii) and 307 I.P.C., having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order and public health, ordered his detention dubbing him as a Bootlegger.

4. The learned counsel for the petitioner challenges the impugned order of detention dated 6.3.2007 on the only ground of pre-determination of mind on the part of the sponsoring authority, as evident from their submission made in the remand extension requisition filed before the learned Judicial Magistrate, Thiruthuraipoondi (page 81 of the booklet), wherein it is stated that the remand extension is required for detaining the detenu under Act 14 of 1982.

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5. In view of the fact that the there is a pre determined notion expressed by the sponsoring authority even before the order of detention is passed by the detaining authority, we are of the considered opinion that the impugned order of detention is vitiated. Accordingly, this petition is allowed. The order of detention dated 6.3.2007 is quashed. The detenu is directed to be

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set at liberty forthwith unless his presence is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1. The Secretary to the Government
   Prohibition and Excise Department
   Fort St. George
   Chennai 600 009.

2. The District Magistrate
   and District Collector
   Nagapattinam District
   Nagapattinam.

3. The Superintendent,
   Central Prison,
   Tiruchirappalli.

4. The Joint Secretary
   to the Government of Tamil Nadu,
   Public (Law and Order) Department,
   Fort St George, Chennai 9.

5. The Public Prosecutor
   High Court, Madras.

+ 1 cc to Mr. T. P. Senthil Kumar, Advocate SR No. 52206

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MRD(CO)
SR/30.8.2007

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